

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Bilal L. Al-Haqq,)	Case No. 2:21-cv-04139-DCC-MGB
)	
Plaintiff,)	
)	
v.)	ORDER
)	
)	
Warden Evonne Willingham, A/W)	
Elaine Freeman, Bryan P. Stirling, Brian)	
Kendall, Ann Sheppard, Nurse Grissom)	
(HCA), Patti Britt-Pooser, Ms. Brown,)	
)	
Defendants.)	
_____)	

BACKGROUND

This matter is before the Court upon allegations of violations of Plaintiff's civil rights pursuant to 42 U.S.C. § 1983. ECF No. 8. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report"). On January 11, 2022, the Magistrate Judge issued an order informing Plaintiff that this action was subject to partial summary dismissal. ECF No. 5. Plaintiff was told that he could attempt to cure the defects in his complaint by filing an amended complaint. Plaintiff was warned that failure to file an amended complaint could result in dismissal of his some of his claims.

Plaintiff filed an amended complaint. ECF No. 8. On February 2, 2022, the Magistrate Judge issued an order identifying certain defects in the amended complaint and directing Plaintiff to file a second amended complaint. Plaintiff was again specifically warned that failure to comply with this order could result in summary dismissal of some of his claims. Despite this warning, Plaintiff has not filed a second amended complaint and the time to do so has lapsed.

As noted by the Magistrate Judge, Plaintiff did file a letter and two declarations after the order directing him to file a second amended complaint. ECF Nos. 12, 15, 18. After each document was filed, the Magistrate Judge informed Plaintiff that to the extent he was attempting to raise additional facts or claims, he must comply with the Federal Rules of Civil Procedure by filing an amended pleading containing all of his claims. ECF Nos. 13, 16, 20. On March 3, 2022, Plaintiff filed a Motion for Prisoner Release Order. ECF No. 22.

On March 9, 2022, the Magistrate Judge issued a Report recommending partial dismissal of Plaintiff's amended complaint with prejudice and that Plaintiff's Motion be denied with leave to refile.¹ ECF No. 23. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff did not file objections to the Report, and the time to do so has lapsed.

¹ An Order authorizing partial service of process was entered at the same time. ECF No. 24.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (citation omitted)).

CONCLUSION

As stated above, Plaintiff has not objected to the Magistrate Judge's Report. Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Defendants Kendall, Grissom, Brown, and Britt-Pooser are **DISMISSED** with prejudice. See *Ackbar v. Monaco*, C/A No. 4:19-cv-02774-RMG, 2020 WL 1164194, at *3 (D.S.C. Mar. 11, 2020), *aff'd*, 828 F. App'x 913 (4th Cir. 2020). Plaintiff's Motion for a Prisoner Release Order is **DENIED** with leave to refile if and when appropriate.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 3, 2022
Spartanburg, South Carolina